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FISCAL IMPACT STATEMENT

LS 6353

BILL NUMBER: HB 1042

NOTE PREPARED: Mar 30, 2011

BILL AMENDED:

SUBJECT: Dissemination of Sexual Material.

FIRST AUTHOR: Rep. Lawson L

FIRST SPONSOR: Sen. Head

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: *Defenses to Crimes:* This bill provides defenses to the crimes of disseminating matter that is harmful to minors, child exploitation, and possession of child pornography if a cellular telephone was used and the defendant and recipient of the matter are certain ages and meet other requirements. It provides that a school corporation may offer classes, instruction, or programs regarding the risks and consequences of creating and sharing sexually suggestive or explicit materials.

Prohibition of Bullying: It provides that discipline rules adopted by a school corporation must prohibit bullying through the use of computers, computer systems, or computer networks of a school corporation.

(The introduced version of this bill was prepared by the Criminal Law and Sentencing Policy Study Committee.)

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Defenses to Crimes:* Under current law the dissemination or possession of child pornography is a felony. However, if the material disseminated was for legitimate scientific, educational purposes, or if the defendant had reasonable cause to believe that the minor involved was above the legal age limit, the defendant may employ these facts as a legitimate defense.

This provision adds to the list of legitimate defenses that a defendant may use if charged with disseminating what could be considered child pornographic material under current law. It stipulates that if the defendant used a cellular phone to disseminate an image, is less than 22 years of age and within 4 years of the recipient's age, is in an ongoing dating relationship with the recipient, and the recipient implicitly or explicitly acquiesced in the defendant's conduct, the defendant may use these facts as a legitimate defense. However, the bill negates this defense if the defendant transmitted the image to a third party who is not depicted in the image.

This provision, in effect, permits the transmission of sexual materials between young adult or teenage couples as long as the individuals are in a relationship with each other, the images are of themselves, and both parties consent to the transmission. The fiscal impact of this provision would depend on local action. There are instances where, under current law, a prosecutor might have brought such a case to trial but under this provision would be reluctant to do so.

Prohibition of Bullying: Under current law, a school corporation must establish written discipline rules prohibiting bullying on school grounds, at school functions, or through the use of property or equipment provided by the school. This bill directs school corporations to establish rules prohibiting bullying through the use of data or computer software that can be accessed through a computer network of the school corporation.

The bill also authorizes school corporations to offer classes on the potential risks and consequences of creating and sharing sexually suggestive or explicit materials through cellular telephones, social networking web sites, computer networks and other digital media.

The fiscal impact of this provision would depend on local action. A school corporation that decides to offer these classes would probably have to do so within its existing budget.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Local prosecutors; School corporations.

Information Sources:

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